

Remarks

Reconsideration of the Restriction Requirement as applied to this Application is respectfully requested. Claims 1-32 are pending in the application, of which claims 1, 11, 15, 23, and 28 are independent. Based on the remarks set forth below, it is respectfully requested that the Examiner reconsider and withdraw the Restriction Requirement.

Election

The Examiner states, on page 2 of the Restriction Requirement, that the claims are directed to two patentably distinct species, namely:

Group I: A method and system for managing network related tasks on a network as recited in claims 1-10 and 15-32.

Group II: A method for determining network connectivity and bandwidth as recited in claims 11-14.

In response to the restriction requirement, Applicant hereby elects Group I comprising claims 1-10 and 15-32, with traverse.

Applicant respectfully submits that the restriction is improper and should be withdrawn. For a restriction requirement to be proper, the Examiner must show that distinctive inventions are being claimed as well as a serious burden on the Examiner if the application is not restricted. Applicant respectfully submits that there are no substantial distinctions between Groups I and Groups II which would necessitate a serious burden. Both groups are related to processing network tasks based on available network bandwidth.

The Examiner, on page 3 of the Restriction Requirement, indicates that the inventions are distinct from each other because Group I and Group II inventions are related as subcombinations disclosed as usable together in a single combination and that the subcombinations are distinct from each other if they are shown to be separately usable. The Examiner then states that the invention from Group I has separate utility, such as managing network related tasks on a network by (a) maintaining a pool of said network related tasks; (b) assigning a priority value to said network related tasks based on network bandwidth; (c) periodically monitoring available network bandwidth on said network; and (d) processing said network related tasks based at least in part on the priority values and the available network bandwidth. The Examiner further states that the invention from Group II has separate utility such as determining network connectivity and bandwidth by (a) transmitting a PING (Packet Internet Groper) from a source node to a destination node; (b) receiving an echo response at said source node from said destination node; (c) transmitting a bandwidth PING from said source node to said destination node; (d) receiving a bandwidth echo at said source node; (e) reporting at least a portion of the data received in (b) and (d) to a network management system; and (f) if it is determined that the bandwidth echo indicates sufficient bandwidth to process one or more network tasks, then processing the one or more network tasks based on a priority ranking for each of the one or more network tasks and available bandwidth.

Applicant respectfully disagrees. In fact, claim 7, which the Examiner indicates is part of Group I, includes similar elements to those recited in claim 11 of Group II. The similar elements of claim 7 are “sending a PING across said network, receiving an echo response across said network, sending a bandwidth PING across said network, and

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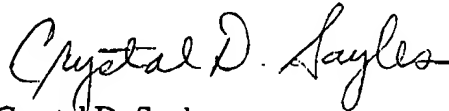
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Appl. No. 09/752,202

receiving a bandwidth response across said network." Thus, contrary to the Examiner's reason for restriction, the "method claims for managing network related tasks on a network" found in Group I also require "transmitting a PING ...; receiving an echo response ...; transmitting a bandwidth PING ...; and receiving a bandwidth echo ...;" as recited in claim 11 of Group II. Also, both claim 1 (from Group I) and claim 11 (from Group II) include a similar element for processing the network related tasks based on priority values and available bandwidth. Applicant therefore believes that the search and examination of the entire application can be made without serious burden to the Examiner.

For at least the reasons stated above, it is respectfully requested that the restriction requirement be reconsidered and withdrawn, and that examination on the merits of all of the claims proceed.

Respectfully submitted,

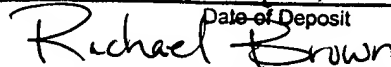
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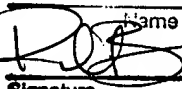
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